

RECEIVED

MAY 12 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

| | | |
|-------------------------|---|------------------------|
| In re Applications of |) | MM DOCKET NO. 93-107 |
| |) | |
| DAVID A. RINGER |) | File Nos. BPH-911230MA |
| |) | |
| <u>et al.</u> |) | <u>et al.</u> |
| |) | |
| For Construction Permit |) | |
| Channel 280A |) | |
| Westerville, Ohio |) | |

To: Administrative Law Judge
Walter C. Miller

**MASS MEDIA BUREAU'S COMMENTS IN SUPPORT OF
MOTION FOR SUMMARY DECISION**

1. On April 30, 1993, Westerville Broadcasting Company Limited Partnership ("WBCLP") filed a motion for summary decision. The Mass Media Bureau submits the following comments in support of WBCLP's motion.

2. The Hearing Designation Order, DA 93-423, released April 15, 1993 ("HDO") specified an air hazard issue against WBCLP based on an Federal Aviation Administration ("FAA") determination that WBCLP's technical proposal might cause electromagnetic interference ("EMI"). However, WBCLP has subsequently received and submitted with its motion a determination from the FAA that its proposal will not pose a hazard to air navigation.

3. Section 1.251 of the Commission's Rules provides for summary decision where there is no genuine issue of material fact for determination at hearing. Here, with the submission of the

No. of Copies rec'd
List A B C D E

046

FAA "No Hazard" determination, there is no longer a question as to whether WBCLP's proposal will cause EMI. Accordingly, summary decision is warranted in favor of WBCLP on the air hazard issue.

4. Accordingly, the Bureau submits that WBCLP's motion for summary decision should be granted.

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau



Charles E. Dziedzic
Chief, Hearing Branch



James W. Shook
Attorney
Mass Media Bureau

Federal Communications Commission
2025 M Street, N.W.
Suite 7212
Washington, D.C. 20554

May 12, 1993

CERTIFICATE OF SERVICE

Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, hereby certifies that she has on this 12th day of May, 1993, sent by regular U.S. mail, U.S. Government frank, copies of the foregoing **"Mass Media Bureau's Comments in Support of Motion for Summary Decision"** to:

Arthur V. Belendiuk, Esq.
Smithwick & Belendiuk, P.C.
1990 M Street, N.W., Suite 510
Washington, D.C. 20036

James A. Koerner, Esq.
Baraff, Koerner, Olender & Hochberg, P.C.
5335 Wisconsin Avenue, N.W., Suite 300
Washington, D.C. 20015-2003

Eric S. Kravetz, Esq.
Brown, Finn & Nietert, Chartered
1920 N Street, N.W., Suite 660
Washington, D.C. 20036

Kyong Ja Matchak
8300 Rockbury Way
Sacramento, California 95843

Dan J. Alpert, Esq.
1250 Connecticut Avenue, N.W., 7th Floor
Washington, D.C. 20036-2603

Dennis F. Begley, Esq.
Reddv. Bealev & Martin